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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,891	02/07/2002	Victor Steven LaFay	024295-260	8690
27805	7590	04/13/2004	EXAMINER	
THOMPSON HINE L.L.P. 2000 COURTHOUSE PLAZA , N.E. 10 WEST SECOND STREET DAYTON, OH 45402			CAMERON, ERMA C	
			ART UNIT	PAPER NUMBER
			1762	

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/071,891

Applicant(s)

LAFAY ET AL.

Examiner

Erma Cameron

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 2,5,6,19,20 and 22-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,7-9,12-18,21 and 25-28 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Election/Restrictions

1. Claims 2, 5-6, 19-20 and 22-24 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the response filed 3/12/2004.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. The rejection of Claims 7, 12, 21 and 25 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, is withdrawn because of the amendment filed 3/12/2004.

4. Claims 7, 15 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a) Claim 7: is dependent on withdrawn claim 6.

b) Claim 15: it is not clear if 50% is a weight % or not.

C0 Claim 21: is dependent on withdrawn claim 20.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The rejection of Claims 1 and 3 under 35 U.S.C. 102(b) as being clearly anticipated by JP 54-116018 is withdrawn because of the amendment filed 3/12/2004.

'018 requires as a critical component a lithium soap. This reference does not meet applicant's composition which does not consist essentially of a lithium soap.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The rejection of Claims 4, 7-18, 21 and 25-28 under 35 U.S.C. 103(a) as being unpatentable over JP 54-116018 is withdrawn because of the amendment filed 3/12/2004 and for the reason given above.

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9. Claims 1, 3, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over DD 92990.

'990 teaches a mold release agent for concrete that consists essentially of a petroleum or mineral oil fraction, rapeseed oil and/or oleic acid, a fatty acid (see Abstracts and entire text of translation). The viscosity is 80-200 cSt which appears to overlap the viscosity range claimed by applicant.

'990 does not refer to the petroleum or mineral oil as mineral seal oil, but mineral seal oil would appear to be encompassed by the terms mineral oil fraction or petroleum oil fraction.

The rapeseed oil appears to be unrefined.

10. Claims 1, 3-4, 7-9, 12-18, 21 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over CN 1129633.

'633 teaches a concrete mold release agent that consists essentially of higher alcohols, bottom vegetable oils (such as corn oil) and waste engine oil at ratios of 10-100 parts by weight, 0-25 and 0-75 respectively (see Abstracts and pages 3-4 of translation). There is also alkali present, but only to adjust pH (p 2). The ratios mean that the vegetable oil may account for more than 50 weight % of the composition, and engine and vegetable oil may be approximately equal, overlapping with applicant's claimed ratios. It would appear that very little VOC or benzene would be released from the composition.

'633 does not refer to the engine oil as machine seal or petroleum oil, but the term engine oil would appear to encompass these.

Allowable Subject Matter

11. Claims 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. The following is a statement of reasons for the indication of allowable subject matter:

The prior art does not disclose nor suggest a cement mold release agent consistently essentially of a equal parts by weight of vegetable oil and mineral seal oil or alcohol or both, and 1-10% by weight oleic acid.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erma Cameron whose telephone number is 571-272-1416. The examiner can normally be reached on 8:30-6:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck can be reached on 571-272-1415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ERMA CAMERON
PRIMARY EXAMINER

Erma Cameron
Primary Examiner
Art Unit 1762

April 9, 2004